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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,703	03/14/2001	Troy Squires	044502.0017	5809

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SUITE 2100  
AUSTIN, TX 78701

EXAMINER

BAHTA, ABRAHAM

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/808,703

Applicant(s)

SQUIRES, TROY

Examiner

Abraham Bahta

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1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 452,529 in view of Nussbaumer (USP 4,768,897) or Friedrich (USP 4,444,815) and further, in view of Motz et al (USP 6,029,397).

EP '529 teaches an artificial turf assembly comprising a base (16) (col. 3, lines 5-8) which may be naturally occurring ground elements such as lime, bituminous material, fly ash, crushed stone, or a mixture thereof (col. 6, lines 2-5); a permeable turf comprised of grass-like plastic blades knitted or otherwise attached to a backing sheet (col. 3, lines 17-20); an impermeable layer comprised of a sheet or geomembrane of impervious material (14) such as polyethylene, polypropylene, polyvinyl chloride disposed upon the base layer; a drainage layer (20) disposed upon the impermeable layer wherein the drainage layer comprises vertical perforation for adequate drainage of water (col. 3, lines 26-35 and Fig. 1). Glued to the drainage layer to form a water permeable layer (12) is a layer of artificial turf (18) comprising Nylon blades (22) knitted to a

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polyester backing sheet (24). The layers may be loosely laid upon each other. See col. 4, lines 9-19.

The reference does not specifically mention a filtering layer; however, the reference at col. 3, lines 50-53 suggests that the shock absorbing layer may be comprised of an open-celled material through which water may drain. In addition employing a filtering layer to an artificial turf or a surface covering is well known as evidenced by Nussbaumer or Friedrich. Nussbaumer discloses a multi layer plate for use in covering waste depositaries comprising at least one drainage layer and a filter stabilization layer, the drainage layer serving to facilitate or enable the removal of water seeping downwardly from the surface of the depositary covering. See col. 3, lines 29-35. Friedrich teaches a ground covering comprising water permeable filter mat impervious to granular material which is bonded to the underside of a water permeable artificial grass wherein water may drain immediately through the artificial grass and the filter mat to the underside of the ground covering. See col. 2, lines 9-29.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to replace the open-celled material of the EP reference with a filter material because EP '29 suggests the drainage layer or shock absorbing layer may be provided with an open-celled material through which water may drain. Further, it would be obvious to one having ordinary skill in the art to employ a filter material to an artificial turf or ground covering in order to prevent undesired particles from penetrating into the drainage layer and ensure the permeability of the drainage layer as suggested by the references.

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Regarding claim 3, the reference does not require natural grass; however, a combination of natural grass and synthetic grass for fabricating an artificial turf is well known as evidenced by Motz. Motz teaches synthetic and natural grass may be used to make a turf. See col. 6, lines 1-12 and lines 41-50.

Regarding claim 9, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to form the layers in a single unit or position them separately, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

Regarding claim 17 the reference teaches that when the assembly is incorporated on a playing field, the field may be laterally sloped downwardly along its longitudinal axis to its periphery so that the collected water is drained off the field. See col. 2, lines 29-36.

### ***Claim Rejections - 35 USC § 103***

Claims 14 -16 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '529 in view of Nussbaumer et al (USP 4,768,897).

EP '529 teaches an artificial turf assembly comprising a base (16) (col. 3, lines 5-8) which may be naturally occurring ground elements such as lime, bituminous material, fly ash, crushed stone, or a mixture thereof (col. 6, lines 2-5); a permeable turf comprised of grass-like plastic blades knitted or otherwise attached to a backing sheet (col. 3, lines 17-20); an impermeable layer comprised of a sheet or geomembrane of impervious material (14) such as polyethylene,

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polypropylene, polyvinyl chloride disposed upon the base layer; a drainage layer (20) disposed upon the impermeable layer wherein the drainage layer comprises vertical perforation for adequate drainage of water (col. 3, lines 26-35 and Fig. 1). Glued to the drainage layer to form a water permeable layer (12) is a layer of artificial turf (18) comprising Nylon blades (22) knitted to a polyester backing sheet (24). The layers may be loosely laid upon each other. See col. 4, lines 9-19.

Regarding claim 15-16, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to form the layers in a single unit or position them separately, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Further, rolling layers of artificial turf or a covering on a field is conventional as evidenced by Nussbaumer '897. Nussbaumer discloses a multi layer plate for use in covering waste depositaries comprising at least one drainage layer and a filter stabilization layer, the drainage layer serving to facilitate or enable the removal of water seeping downwardly from the surface of the depositary covering or gasses rising from the depositary body. The reference teaches the plate is flexible that it can be shipped to a construction site wound on a roll and can be unwound there from the roll directly onto an installation area. Similarly, it would have been obvious to one of ordinary skill in the art to roll the artificial turf of the EP '529 onto an installation area or field as taught by Nussbaumer.

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### **Response to Applicant's Arguments**

Applicant's arguments filed 12/31/02 have been fully considered but they are not persuasive.

The Affidavit filed under 37 CAR 1.132 have been considered; however, it is the Examiner's position that the instant claimed invention is obvious in view of the cited reference. With respect to the EP reference (Dempsey) the applicant argues the reference fails to teach, suggest the turf assembly of the instant claimed invention. Specifically, the applicant contends Dempsey's artificial turf does not include a filtering layer. The Examiner contends although the Dempsey reference does not specifically mention a filtering layer the reference teaches a drainage layer. In addition, Dempsey teaches the shock absorbing layer may be comprised of an open celled material through which water may drain directly. See col. 3, lines 50-52. Further, the applicant argues no suggestion exists for combining the cited reference. The Examiner contends the cited references provide ample motivation to the skilled artisan to fabricate applicant's claimed invention. For example, Nussbaumer teaches the filter stabilization layer prevents fine soil particles from penetrating into the drainage layer and thereby ensures the permeability of the drainage layer (col. 3, lines 29-35) and Friedrich teaches a ground covering comprising water permeable filter mat impervious to granular material which is bonded to the underside of a water permeable artificial grass where water may drain immediately through the artificial grass and the

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filter mat to the underside of the ground covering. Col. 2, lines 9-29. In addition, use of a filtering layer in an artificial turf is well known as further evidenced by Jones US patent 6,221,445.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jones (USP 6,221,445) teaches a deflection layer which may be affixed directly to geotextile fabric backing which provides additional strength to the deflection layer, and prevents filler sand or loose articles from falling through. See col. 5, lines 26-30.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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Any inquiry concerning this communication should be directed to Abraham Bahta at telephone number (703) 308-4412. The Examiner can normally be reached Monday-Friday from 11:30 AM -8:00 PM (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor Deborah, Jones, can be reached on (703) 308-3822.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



A. Bahta

03/03/03



DEBORAH JONES  
SUPERVISORY PATENT EXAMINER